

REMARKS

Claims 1, 15, 17, 19, 20, 24, 25, 31, 35, 38, 133-137, 140, 142, 143 and 145-152 are pending in the application, and all claims have been rejected. By amendment wherewith, Claims 1, 17, 145, 148, 151 and 152 are being changed and Claims 15, 137, 140, 143, 146 and 147 are being cancelled. None of the amendments introduce new matter, and all of the amendments are made without prejudice to or disclaimer or dedication of any subject matter, and a right is specifically reserved to file continuation and/or divisional applications claiming any subject matter disclosed in the application.

Examiner Roberts and Supervisory Examiner Fetterolf are thanked for their time in conducting a telephone interview on March 31, 2009. In addition to Examiners Roberts and Fetterolf, Ross Breyfogle, the undersigned, and Pamela Politis (Reg. No. 47,865) were present representing the owner by assignment of the application. During the interview, possible amendment of Claim 1 was discussed to limit the claims to N-acetylcysteine in an amount of about 10 weight percent. That feature was already present in Claims 140 and 147, which were not rejected as lacking novelty or as being obvious. Also discussed were the references relied upon in the office action to reject other claims for asserted obviousness – Hoeck et al. (US 6620428), Krezanoski et al. (US 4188373), and Piechota, Jr. (US 5256396). Also discussed were possible amendments to Claim 1 to address indefiniteness objections. No agreement was reached.

The specific issues raised in the January 8, 2009 Office Action are addressed below.

Rejection Under 35 U.S.C. § 112, Second Paragraph

Claims 1, 15, 17, 19, 20, 24, 25, 31, 35, 38, 38, 133, 137, 140, 142, 143, and 145-152 were rejected under 35 U.S.C. § 112, second paragraph based on an assertion of indefiniteness. Although the rejection is traversed, claim amendments have, nevertheless, been made to obviate the rejection. In particular, in Claim 1 the Examiner objected to the text “some range” and “some temperature”. Claim 1 has been amended to remove the objected-to text without changing the scope of the corresponding features of the claim, and with replacement of the word “some” with

the equivalent word "a". The Examiner also stated an objection to Claim 40, which is believed to be intended as a reference to Claim 140, because Claim 40 is not pending in the application. To the extent that the Examiner's objection was intended to be to Claim 140, such an objection would be mooted by the cancellation of Claim 140 by amendment herewith. Withdrawal of the rejection as to all claims is, respectfully, requested.

Rejections Under 35 U.S.C. § 103(a)

A prior rejection under 35 U.S.C. § 103(a) based on an assertion of unpatentability over Hoeck et al. (US 6620428) in view of Krezanoski et al. (US. 4188373) has been maintained, except that the rejection has been expressly withdrawn with respect to Claims 140, 145 and 147. Therefore, the rejection currently stands with respect to Claims 1, 15, 17, 19-20, 24-25, 31, 38, 133-137, 142, 143 and 146-152.

A prior rejection under 35 U.S.C. § 103(a) based on an assertion of unpatentability over Hoeck et al. (US 6620428) in view of Piechota, Jr. (US. 45256396) has been maintained, except that the rejection has also been expressly withdrawn with respect to Claims 140, 145 and 147. Therefore, the rejection currently stands with respect to Claims 1, 15, 17, 19-20, 24-25, 31, 35, 133-137, 142, 143 and 146-152.

These rejections are traversed. These rejections and distinguishing features over the references cited for the rejections are discussed in an appeal brief appeal brief filed September 28, 2008, which discussions are equally relevant here but for brevity are not repeated.

Nevertheless, Claim 1 has been amended to state the combination of elements previously present in dependent Claim 140, for which the obviousness rejections were expressly withdrawn. The rejections under 35 U.S.C. § 103(a) should, therefore, be withdrawn.

Rejections For Asserted Obviousness-type double patenting

Obviousness-type double patenting rejections have been stated with respect to various claims, including Claim 140, over various cited claims of U.S. Patent No. 6,685,917 and of U.S. Patent No. 6,685,917 in view of Krezanoski. Provisional rejections based on asserted obviousness-type double patenting have been stated with respect to various claims, including

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Claim 140, over various cited claims of copending U.S. Application No. 11/540,357; of copending U.S. Application No. 11/525,752; of copending U.S. Application No. 11/605,983; and of copending U.S. Application No. 11/525,983 in view of Jacob (US 2002/0103219). Without admitting that any of the rejected claims are obvious variations of the inventions of any of the claims in the issued patents and copending applications cited by the Examiner, appropriate terminal disclaimers will be filed upon an indication of allowable subject matter is made, and it is requested that these rejections be held in abeyance until that time.

It is believed that all of the issues raised in the January 8, 2009 Office Action have been addressed, and that the next action should provide an indication of allowability of the claims as amended herewith, which claims are all directed to subject matter not rejected for lack of novelty or as being obvious. If the Examiner believes that it would be helpful to discuss any of the amendments or remarks presented, or to discuss possible Examiner amendments, the Examiner is respectfully invited to contact the undersigned at the telephone number provided below.

Respectfully submitted,

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